

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE  
JOSE A RODRIGUEZ ROSA &  
CARMEN L ALVARADO TORRES

SSN #5821/#7557  
Debtors

BANKRUPTCY 18-03391 ESL

CHAPTER 13  
*Hearing on docs #6 & #18 7/17/2018*

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CREDITOR REQUEST FOR RELIEF UNDER §362(c)(3)(A) & (B)

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TO THE HONORABLE COURT:

NOW APPEARS Creditor ALEJANDRO TORRES GARCIA through his joint legal representation who respectfully pray to the Court as follows:

1. Debtors filed this bankruptcy case under the provisions of chapter 13 on **June 15, 2018**. On the same date debtors requested that the automatic stay be continued at doc #06 pursuant to §362(c)(3). See docs #01 and #06.
2. Appearing creditor requested at doc #15 and obtained at doc #16 an extension of time to oppose the §362(c)(3) request for continuation of the stay until July 13, 2018.<sup>1</sup> Creditor filed his opposition to the continuation of the stay on July 11, 2018 titled *Creditor Motion for Denial of Debtors' Request to Continue Automatic Stay & §362(C)(3) Motion* at doc #18.
3. Creditor in his Opposition essentially asserts, *inter alia*, that debtors have failed to demonstrate that the filing of this their second successive filing within one year is in good faith as to the creditors to be stayed. Refer to doc #18.<sup>2</sup>
4. Upon notice and a hearing, the court may extend the stay in a case as to any or all creditors (subject to such conditions or limitations as the court may then impose) **after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.** 11 U.S.C. § 362(c)(3)(A)-(B). Emphasis added.

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<sup>1</sup> On July 2, 2018 this Court at doc #16 allowed the extension requested by this creditor at doc #15 by re-setting and re-scheduling the due date for opposition and for the hearing for July 13 and July 17 respectively.

<sup>2</sup> On July 14, 2018 at doc #20 debtors have responded to creditor's opposition to the continuance of the automatic stay wherein there is now some semblance of reasons for not performing in their prior case, permit situation etc. & appears to attempt to cure other omissions in pleading in the original motion at doc #06 raised by creditor at doc #18.

5. The hearing on this matter has been re-scheduled for **July 17<sup>th</sup>, 2018**. Notwithstanding, § 362(c)(3)(A)-(B) plainly and textually requires that both notice and the hearing on this matter must be completed before the expiration of the 30-day period.
6. Debtors have failed to bring the matter or error of the hearing being scheduled outside of the original 30-day period to the attention of the Court. Neither does debtors' motion minimally plead the requirements of §362(c)(3) as asserted and argued in Creditor's *Motion for Denial* filed on July 11, 2018 and as such should be denied or conditioned as requested in the alternative in creditor's prayer filed at doc #18.
7. Under the circumstances that debtors have not minimally pled the requirements of §362(c)(3) nor have they demonstrated that this their second successive case is in good faith in conjunction to the fact that the hearing will not be completed before the 30-day period required by §362(c)(3)(A)-(B), the continuation of the stay must necessarily be denied, or conditioned as to this creditor as prayed at doc #18.
8. Notwithstanding debtors' response at doc #20 on July 14, 2018 wherein some semblance of curing minimum pleading standards lacking in doc #06, creditor still requests conditions be required of this debtor, some of which have been anticipated by the debtors will be performed in its response at doc #20.
9. Parties will attempt to reach agreement prior to the hearing on this matter scheduled for July 17, 2018.
10. Leave is requested for a reduced, if any, opposition opportunity notice under the circumstances that there is a hearing tomorrow, July 17, 2018.

WHEREFORE creditor respectfully prays that debtors' motion for continuation of the automatic stay be denied and/or conditioned as prayed at doc #18 for failure:

- a) to assure & correct that both the Notice and hearing would be completed within the original 30-days as required by §362(c)(3)(A)-(B);
- b) failure of the motion to meet minimal pleading standards in demonstrating that this debtors' second successive case is in good faith;
- c) in demonstrating that there has been substantial change in debtors' financial and personal situation; and
- d) that this second successive filing will be successful and that debtors will be able to reorganize and rehabilitate their financial situation in this second successive case within one year.

NOTICE

Within five (5) days after service as evidenced by the certification, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (I) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

**I hereby certify** that a copy of the foregoing document was delivered via CmECF to: Ms. Johanne A Cortes, Esq. for debtors @ [lcdajohannecortes@gmail.com](mailto:lcdajohannecortes@gmail.com), Mr. Alejandro Oliveras, Esq., Chapter 13 Trustee @ [aorecf@ch13sju.com](mailto:aorecf@ch13sju.com), Ms. Monsita Lecaroz, Esq, U.S. Trustee @ [ustpreion21.hr.ecf@usdoj.gov](mailto:ustpreion21.hr.ecf@usdoj.gov), and all creditors participants therein and to to Jose Alberto Rodriguez Rosa Carmen Lourdes Alvarado, debtors via regular mail to: Brisas de Tortuguero, #16 Calle Rio Grande, Vega Baja 00693.

In Hatillo and Caguas, Puerto Rico, today 16<sup>th</sup> of July 2018.

<i>s/Melissa Cofán Hernández</i> <b>MELISSA COFÁN HERNÁNDEZ</b> USDC PR #2242 PO BOX 944 DORADO, PUERTO RICO 00646 TEL (787) 640-6882 <a href="mailto:melissacofan@yahoo.com">melissacofan@yahoo.com</a>	<i>s/ L. A. Morales</i> LYSSETTE MORALES VIDAL USDC PR #120011 L.A. MORALES & ASSOCIATES P.S.C. URB VILLA BLANCA 76 AQUAMARINA CAGUAS PUERTO RICO 00725-1908 TEL (787) 746-2434 Fax 1-855-298-2515 <a href="mailto:lamoraleslawoffice@gmail.com">lamoraleslawoffice@gmail.com</a> & <a href="mailto:irma.lamoraes@gmail.com">irma.lamoraes@gmail.com</a>
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